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EXAMINER

HURLEY, SHAUN R

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3765

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/776,848
Filing Date: February 11, 2004
Appellant(s): MURPHY, H. STETSER

MAILED
NOV 02 2007
Group 3700

Sandra M. Drummond
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 13 June 2007 appealing from the Office action mailed 26 October 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

5,577,644	Chen	11-1996
2,946,493	Bury et al	7-1960
6,170,721	Chen	1-2001
4,872,568	Lehmann	10-1898

(9) Grounds of Rejection

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The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, 9, 10, and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen (5577644).

Chen teaches a garment hanger comprising at least one arcuate hook member (60) having first and second ends, and at least one generally spherical ball shaped member (20) having surface protrusions (ears, nose, etc) and of at least 2 inches in diameter (scale of figures, use) and fixably attached proximate to the second end, wherein the hanger is made of a moldable material (all materials including plastics, metals, etc are moldable). In regards to nonslip material, all hanger materials are nonslip as compared to known slippery materials. Chen also inherently teaches the method of using such a hanger.

In regards to the generally spherically shaped ball member receiving the garment to be hung, this is intended use, and so long as the structure is capable of performing the intended use, the claim is anticipated.

Claims 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Bury et al (2946493).

Bury teaches a garment hanging device (Figure 2) comprising a support frame, at least one extension arm (14) having first and second ends, first end being secured to the support

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frame, wherein the extension arm had upper and lower extension with a ball (22, 24) attached on each, as well as a ball between first and second ends. In regards to the generally spherically shaped ball member receiving the garment to be hung, this is intended use, and so long as the structure is capable of performing the intended use, the claim is anticipated.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen.

Chen essentially teaches the invention as discussed above, but fails to specifically teach being integrally molded of expanded polystyrene, which is well known in the art. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to mold the hanger in one piece out of expanded polystyrene, so as to cheaply produce a safe hanger.

Molding as one piece removes expensive assembly, and expanded polystyrene is a safer material for hanging garments on, all understood by the ordinarily skilled artisan and known in the art.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Chen (6170721).

Chen essentially teaches the invention as discussed above, but fails to specifically teach the hook having substantially flat surfaces, which Chen '721 teaches (Figure 1). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to utilize flat

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hook surfaces, so as to stabilize the hook on a rod. The ordinarily skilled artisan would understand this benefit, and know to use such.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Bury.

Chen essentially teaches the invention as discussed above, but fails to specifically teach a hemispherical indent, which Bury teaches (Figure 6). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to utilize such an indentation, so as to stabilize the hook on a rod. The ordinarily skilled artisan would understand this benefit, and know to use such.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Lehmann (4872568).

Chen essentially teaches the invention as discussed above, but fails to specifically teach a plurality of hanging arms along a connecting rod. Lehmann teaches that using such a spreadwidth construction is well known in the art (Figure 1). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to utilize the structure as taught by Lehmann in the invention of Chen, so as to allow for greater stability on the hanging rod. By providing multiple hanging arms and a width, the ordinarily skilled artisan would increase the balance in the hanger, providing appreciable stability.

(10) Response to Argument

In response to Applicant's arguments regarding claim 1, Applicant's claims require "at least one **generally** spherical-shaped member". It is Examiner's opinion that Chen most certainly teaches at least one generally spherical-shaped member, in that detail 20 is generally

spherical-shaped. Applicant's arguments as pertaining to the definition of a sphere are acknowledged, but this is NOT what Applicant claims. Applicant argues that the shape provides function, that prevents deformation. Examiner's opinion still remains that no deformation would occur if an item of clothing were hung on detail 20 of Chen for a short period of time, thus fulfilling the function required.

In response to Applicant's arguments regarding claims 4 and 15, Applicant argues that the hanger is produced by an injection molding process. Examiner disagrees, inasmuch as claim 4 states "wherein the hanger is formed from a moldable material". It is Examiner's opinion that the materials as taught are most certainly moldable. This is what claim 4 requires, and this is what the prior art teaches.

In response to Applicant's arguments regarding claim 13, it is Examiner's position that garment hangers and their use is known. Applicant is essentially arguing that the one of ordinary skill in the art would not know how to operate or use a garment hanger without undue experimentation. The very provision of a "garment hanger" teaches its use. And again, deformation is dependent on time, which absent a specific period, is open ended.

In response to Applicant's arguments regarding claim 18, Applicant argues that Bury does not teach a support frame, or extension arms with first and second ends. Again, Examiner disagrees, in so much as Bury teaches the stem of the hanger as a support frame, a first arm 12, and a second arm 14. Applicant argues that they are one arm. Examiner's position is that they are two arms formed as an integral part, both of which have a first and second end. Examiner also notes Applicant's claims and arguments drawn toward an integral hanger, which would make his arms one piece.

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In response to Applicant's arguments regarding claim 19, each arm 12, 14 has upper and lower balls (Figure 4), which are attached to one another by shank 30, which protrudes above and below each arm, thus providing an upper extension arm, and a lower extension arm.

In response to Applicant's arguments regarding claim 20, it is Examiner's opinion that Figure 4 shows such a relationship between the upper and lower balls.

In response to Applicant's arguments regarding claims 5, 7, and 8, Examiner's opinion is that molding would provide substantially the same product at a far cheaper price, since the pieces would not have to be individually made and assembled. Injection molding is widely known, well known, and well understood, and the ordinarily skilled artisan would have the capabilities and knowledge to injection mold any hanger to increase production and profits.

In response to Applicant's arguments regarding claim 11, Applicant has simply restated his arguments regarding claim 1.

In response to Applicant's arguments regarding claim 12, Examiner directs Applicant to Figure 6 of Bury which specifically shows the arcuate hook possesses a hemispherical indent at its very end.

Finally, in response to Applicant's arguments regarding claims 16 and 17, it is Examiner's opinion that the combination of Chen and Lehmann most certainly teaches the claims as written, in so far as connecting rods are well known in the art, and their use would enable a more spreadwidth design, stabilizing the hanger.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Shaun R Hurley/

SRH
15 October 2007

Conferees:

Gary L. Welch 


Heather C. Shackelford